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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,695	03/22/2005	Minoru Matsui	052289	4034

38834 7590 09/07/2006

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EXAMINER

MAHONE, KRISTIE ANNETTE

ART UNIT PAPER NUMBER

3751

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/528,695

Applicant(s)

MATSUI ET AL.

Examiner

Kristie A. Mahone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/22/2005
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Japan on 9/25/2002 and 7/16/2003. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file; i.e. certified copies of the 2002-279796 and 2003-275404 applications, as required by 35 U.S.C. 119(b).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "jet water supply portion" (Claim 1) must be shown or the feature will be canceled from the claim.

Although reference character 106 designates the jet water supply portion of the third embodiment, such portion is not shown for the first and second embodiments, i.e.

(Figures 1-3). Notably, based on the contents of the disclosure, the spout mouth (16) appears to function similar to feature 106. (See p. 6, first full paragraph). Thus, appropriate correction *may* entail merely renaming reference character 16. No new matter should be entered.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "105" and "13" have both been used to designate the "trap drainage portion". Reference characters "104" and "11" have been used to designate the "bowl portion." And, reference characters "102" and "12" have been used to designate the "toilet." The examiner acknowledges that the three digit reference

numbers refer to the third embodiment and that the two digit numbers refer to second embodiment. However, the part names should reflect such convention. For example 105 could designate the "third embodiment trap drain" and 13 could designate the "first and second embodiment trap drain."

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

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5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.
6. Claims 3,4,5,and 7 contain subject matter which is beyond the scope of the specification. Specifically, each of the aforementioned claims recite that water is supplied to either the rim water supply portion or the jet water supply portion for “a predetermined period of time.” In each case, such limitation is broader than the scope of the specification because the specification gives a precise time period for water supply. For instance, regarding Claim 3, “Rim Wash Mode 1” commences after 25 seconds. (See Figure 15; p. 31). Therefore, when the switch for cleaning is operated, water is supplied to the rim water supply portion for 25 seconds, at most; and then to the jet water supply portion. A predetermined time could be any time period, not necessarily 25 seconds, as disclosed in the specification.
7. The disclosure is objected to due to the following informalities. Apparently Line 13 on page 9 contains a typographical error. Line 13 refers to a “sixth embodiment,” which is inconsistent with the “Brief Description of the Drawings” section which indicates that the disclosure only contemplates *three* embodiments.
8. Further, there are several grammatical and idiomatic errors, which appear to be a result of literal translation into English from a foreign document. Examples of some unclear, inexact or verbose terms used in the specification are: “jet water supply portion which *orients* a trap drainage portion” [page 2, ¶2 ]; “on the other hand”, as used on page 7, ¶ 2; “numeric” (page 7, ¶ 4); “forgetting” (page 9, ¶1).

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9. Also, Figure 8 (wash water device) is initially discussed on page 19. However, the features corresponding to the reference characters therein (110, 127, 109) are not identified until page 21 (rim water supply path, motor, jet water supply path), making the description difficult to follow and understand.

### ***Claim Objections***

10. Claim 5 recites the limitation "proceeds to the next operation" in Lines 3-4. There is insufficient antecedent basis for this limitation in the claim; i.e. it not readily apparent which step or operation the claim is referring to.

11. Claim 7 also recites the limitation "proceeds to the next operation" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. Claims 1 and 3-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it

pertains, or with which it is most nearly connected, to make and/or use the invention without undue experimentation. The limitation "control means for" is presumed to invoke 35 U.S.C. 112, sixth paragraph. Because the specification does not describe the structural components necessary to control operation of the water supply means, the claims are not supported by an enabling disclosure. See MPEP 2185.

15. Claims 1 and 3-7 are rejected 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. First, the claims are rejected because the term "orients" is used in Claim 1, Line 4 to describe the relationship between the jet water supply portion and the trap drainage portion. The term fails to aptly convey how such features are aligned with respect to each other. Appropriate correction is required

Further, the phrase "control means for" is presumed to invoke 35 U.S.C. 112, sixth paragraph. Accordingly, the limitation is considered as a means plus function limitation in accordance with *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). See MPEP § 2181. To meet the definiteness requirement of 35 U.S.C. 112, second paragraph, the corresponding structure of a means-plus-function limitation must be disclosed in the specification in a way that one skilled in the art will understand which what structure will perform the recited function. See MPEP §§ 2181, 2185.

The specification does not precisely recite structural components for the control means. While the omission of the corresponding structure may be severe enough to warrant an indefiniteness rejection (35 U.S.C. 112, ¶ 2) of Claims 1 and 3-7, it is

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suggested that applicant clearly define the structural components of the control means; e.g. a microprocessor, interface circuitry, timer, etc.

***Claim Rejections - 35 USC § 102***

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Makita et al. (5,204,999). Makita discloses the same invention, including a water supply means (i.e. valves 25-26) for supplying water to a rim water supply portion (18) and a jet water supply portion (nozzle 22); a control unit (29) for controlling the water supply means; and an operation unit (30), equipped with an input switch (See Col. 8, lin. 23-25). When the switch is engaged, the controller supplies water to a jet water supply portion (22), and ultimately to a trap drainage portion (14) for a period of time sufficient to allow the bowl face to be discharged. (See Col 8, lin. 18-67). In Column 9, line 48- Col. 10, lin. 18, Makita further discloses water is supplied into the trap drainage portion for a period of time longer than the time for washing the toilet after use (preliminary flushing).

Regarding the water supply sequences of Claims 3 (rim-jet), 4 (rim-jet-rim), and 6 (jet –rim-jet-rim), Makita discloses that water is supplied to the rim water supply portion for a predetermined period of time prior to supplying water to the jet water supply portion. (See col. 8, lin. 42-52). Because Makita's system may supply water to the rim and to then jet when activated by the switch, Makita's system is deemed capable of performing any



water supply sequence wherein a rim washing and jet washing are consecutive operations, even if the user must depress the activation switch multiple times.

Regarding Claims 5 and 7, Makita discloses that when the switch is operated (Col 8, lin. 43-44), before a predetermined period of time elapses (supply of water to the rim for a predetermined time), the control means will proceed to the next operation (close valve 25). See Col. 8, lin. 43-52.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is:

Shibata et al. (6,115,853)

Hayashi et al. (5,502,845)

Tomita et al. (6,543,066)

Patterson ( 7,047,574)

These references are cited to show related art/ devices. Notably, Tomita is cited to show a water supply means (washing water supply device) that may anticipate or render obvious the water supply means of the third embodiment of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie A. Mahone whose telephone number is (571) 272-3680. The examiner can normally be reached on Monday -Friday 8:30A.M-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9/1/06